



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: FOO - 206817

PRELIMINARY RECITALS

Pursuant to a petition filed on November 7, 2022, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Wood County Human Services Department - WI Rapids ("the agency") regarding FoodShare benefits (FS), a hearing was held on December 6, 2022, by teleconference initiated from Madison, Wisconsin.

The issues for determination are whether the agency properly determined Petitioner's household composition and whether the agency properly terminated Petitioner's FS eligibility as of November 2022.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: Jennifer Schuh

Wood County Human Services Department - WI Rapids
111 W Jackson St
Wisconsin Rapids, WI 54495

ADMINISTRATIVE LAW JUDGE:

Teresa A. Perez
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is an unmarried resident of Wood County who is the biological mother of two minor children: [REDACTED]
2. Petitioner and her two children reside together in a rented house. Since at least August 2022, [REDACTED], who is the biological father of [REDACTED] has resided with them.
3. Petitioner, who is an over-the-road trucker, is home a minimal number of days each month.
4. [REDACTED] does not have a child support obligation for [REDACTED]
5. [REDACTED] pays rent and all utility expenses for the house where Petitioner, he, [REDACTED], and [REDACTED] reside.
6. Since at least September 2022, [REDACTED] has been employed by [REDACTED]. His average weekly income in September was \$997.76.
7. Petitioner receives \$187 per month in child support for [REDACTED]
8. Petitioner's shelter costs include: monthly rent of \$400, electric and gas (heat) utility costs, Internet, and septic pumping.
9. By notice dated October 3, 2022, the agency informed Petitioner that she, [REDACTED], [REDACTED] and [REDACTED] were not eligible for FS as of November 1, 2022 because their net income resulted in an allotment of zero.
10. Petitioner appealed.

DISCUSSION

A FS household generally includes individuals who reside together and who customarily purchase and prepare meals together. See 7 C.F.R. §273.1(a). There are some exceptions which are commonly referred to as "relationship rules". Relevant to this case is the relationship rule that requires individuals who are under 22 years of age and who live with their parents to be included in their parents' FS household even if they do not customarily purchase and prepare food together. 7 C.F.R. §273.1(b)(1)(i) and *FSHB* §3.3.1.

The agency contended that [REDACTED] resides with Petitioner, [REDACTED] and that because Petitioner and [REDACTED] are [REDACTED] co-parents, the relationship rule described above require all four of them to be included in the same FS household. Petitioner argued that because [REDACTED] is an over-the-road trucker and "only home 3 days a month" and not legally responsible for Petitioner or [REDACTED] he should not be included in the FS household. See *Petitioner's Request for Fair Hearing*.

Petitioner did not assert that [REDACTED] has any other address that he uses as a "home base", that he keeps his possessions elsewhere, or that he uses another address even for mailing purposes. Moreover, she acknowledged that [REDACTED] pays the cost of rent and utilities for the house where she and her children reside and that he does not have a child support obligation for their child in common. I thus find that the agency properly determined that [REDACTED] resides with Petitioner, [REDACTED] and [REDACTED]. The agency also correctly concluded that because [REDACTED] and [REDACTED] are both under age 22 and live with Petitioner, they must be included in Petitioner's FS group, and because [REDACTED] resides in the same house as the three of them and is the father of [REDACTED] he is drawn into the same FS household.

Because [REDACTED] must be included in Petitioner's FS household, his income must be considered when determining the household's eligibility. Federal regulations and state policy set forth rules the Department of Health Services ("the department") must follow in determining eligibility for FS and calculating the amount of monthly FoodShare benefits to which an eligible household is entitled. 7 C.F.R. §273.10(e)(1)-(2); *FoodShare Wisconsin Handbook (FSHB)* §§4.3 and 4.6. The first step in this process

requires the agency to count all of the household's monthly nonexempt income. This amount is then compared to a gross income limit which equals 200% of the Federal Poverty Level. See *FSHB* §4.2.1.

Petitioner's household income includes child support paid to Petitioner for [REDACTED] wages both of which are non-exempt income types for the FS program. The agency properly budgeted Petitioner's household income to be \$4,477.37 which is under the gross income limit (i.e., \$4,626 for a household of four).

The second step in determining a household's eligibility requires the agency to identify and subtract applicable deductions from the household's nonexempt income. All households are entitled to a standard deduction, the amount of which varies depending on the size of the household. As of October 2022, the standard deduction for a household of four is \$193 per month. 7 C.F.R. §273.9(d)(1); *FSHB* §4.6.2 and App. 8.1.3. Depending on a household's financial circumstances, it may also qualify for any or all of the following additional deductions: 1. an earned income deduction equal to 20% of total earned income; 2. a medical expense deduction equal to qualifying medical expenses that exceed \$35 per month for elderly individuals or individuals with disabilities; 3. a child support expense deduction; 4. a dependent care expense deduction; and 5. an excess shelter expense deduction equal to countable shelter expenses that exceed 50% of the household's income remaining after other deductions. 7 C.F.R. §273.9(d)(1)-(6); *FSHB* §4.6; App. 8.1.3. When calculating the shelter deduction, the agency includes a utility allowance of \$471 for households with a heating obligation. *Id.* The household's income less all applicable deductions is referred to as the household's "net income."

The final step in calculating a household's monthly FS allotment requires the agency to subtract 30% of the household's net income from the maximum allotment for the applicable household size. 7 C.F.R. §273.10(e)(2)(ii)(A). The department maintains a table that indicates maximum monthly allotment amounts based on a household's net income and household size. See *FSHB* App. 8.1.2. Effective October 2022, the maximum monthly allotment for a household of four is \$939.

Petitioner's household is entitled and was given a \$193 standard deduction and a 20% earned income deduction. The agency also correctly considered and counted the household's shelter expenses. Petitioner's household income less allowable deductions is \$3,426.30. 30% of that amount is \$1,027. Because that exceeds the maximum allotment of \$939, the household is not eligible for any benefits.

Petitioner did not assert that the agency made any mistakes in counting income or determining deductions. Nevertheless, I reviewed the agency's calculation which is set forth in Exhibit 8 and found no errors. If Petitioner's household composition, income, or expenses change in the future, she may file a new application for evaluation by the agency.

CONCLUSIONS OF LAW

- The agency properly determined Petitioner's household composition to be a household of four.
- The agency properly determined that Petitioner's gross household income minus allowable deductions is too high to qualify for an allotment of benefits.

THEREFORE, it is

ORDERED

Petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 4822 Madison Yards Way, 5th Floor North, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

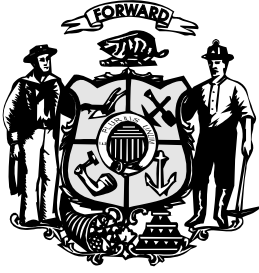
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 6th day of January, 2023



\s _____
Teresa A. Perez
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on January 6, 2023.

Wood County Human Services - WI Rapids
Division of Health Care Access and Accountability